

21-13-315. Costs of court ordered placement of children in private residential treatment facilities, group homes, day treatment programs and juvenile detention facilities.

(a) The department of family services shall establish an account to pay residential and treatment costs excluding educational and medical costs of court ordered placements of children in private residential treatment facilities and group homes located in Wyoming. Programs providing education services including programs for children with disabilities provided by a board of cooperative educational services, shall bill the department of education directly for educational costs of court ordered placements. In addition, costs of all related services for children with disabilities and costs of education assessment for other children incurred as a result of court order prior to any placement, shall be billed directly to the department of education. The department of family services shall promulgate reasonable rules and regulations to provide procedures for implementing subsection (m) of this section. If the court rejects an in-state placement recommendation of the predisposition report or multidisciplinary team under W.S. 14-6-227, the court shall enter on the record specific findings of fact relied upon to support its decision to deviate from the recommended disposition. **No court shall order an out-of-state placement unless:**

(i) Evidence has been presented to the court regarding the costs of the out-of-state placement being ordered together with evidence of the comparative costs of any suitable alternative in-state treatment program or facility, as determined by the department of family services pursuant to paragraph (d)(vii) of this section, whether or not placement in the in-state program or facility is currently available;

(ii) The court makes an affirmative finding on the record that no placement can be made in a Wyoming institution or in a private residential treatment facility or group home located in Wyoming that can provide adequate treatment or services for the child; and

(iii) The court states on the record why no in-state placement is available.

(b) Except to the extent costs are covered under subsection (n) of this section, the department of education using federal or foundation funds, or both, shall pay for the allowable education costs of juvenile and district court ordered placements of children residing in private treatment facilities and group homes where a fee is charged, including court ordered placements in programs for children with disabilities provided by a board of cooperative educational services. No district shall receive funds, either directly or indirectly, from any facility or home receiving payment under this section for providing education programs and services to children placed and residing in the facility or home, but the district may count the children among its average daily membership. The department of education shall adopt reasonable rules and regulations prescribing standards and allowable costs for educational program services funded under this section. Standards shall be subject to W.S. 21-9-101 and 21-9-102 and rules and regulations of the state board and shall be designed to fit the unique populations of residential centers, group homes, programs and services provided by boards of cooperative educational services and out of state placement facilities.

(c) Costs shall be billed monthly by the program provider to:

(i) The department of family services account for residential and treatment services; and

(ii) Except to the extent costs are covered under subsection (n) of this section, the department of education for approved educational services specified under subsection (b) of this section.

(d) If a placement of a child is to be made and funded under this section, the predisposition study required by W.S. 14-6-227 shall include:

- (i) A description of efforts to provide services to the child in the home prior to placement;
 - (ii) Contact with other agencies involved with the child. At a minimum, those contacted shall include the child's school and the field office of the department of family services;
 - (iii) The presence of any preexisting and identified handicapping conditions;
 - (iv) A review of the financial resources of the child's parent or guardian;
 - (v) A certification by the department of family services that funding for the placement is available within the appropriation. The placement of the child shall not be funded under this section if the department of family services is unable to make the certification. The department of family services shall make the certification only if unencumbered funds are available within the appropriation making allowance for the costs for children already placed. Funds shall not be certified available if an adequate, less restrictive, less expensive placement is available;
 - (vi) The names of persons and agencies contacted in preparing the report; and
 - (vii) If an out-of-state placement is under consideration, the name, address, program description and costs of each Wyoming institution and each private residential treatment facility and group home located in Wyoming that the department of family services has determined can provide adequate treatment or services for the child, and whether placement in the in-state institution, treatment facility or group home is available.
- (e) If at any time the placement is found to be educationally inappropriate or not the least restrictive placement available, the placement shall be referred back to the court with a recommendation on what would be a suitable placement.
- (f) Only group homes and residential treatment facilities certified by the department of family services are eligible to receive funding for residential and treatment services under this section. Costs for education services shall be paid by the department of education under this section only if the educational program of the group home or residential treatment facility or the program provided by the board of cooperative educational services meets the standards of subsection (b) of this section and has been approved by the department. The department of family services and the department of education shall provide the courts with a list of approved facilities and services. The court shall determine the parents' or the guardian's contribution to the court ordered placement for all costs excluding necessary education costs based on the parents' or guardian's ability to pay as provided by W.S. 14-6-236.
- (g) Repealed by Laws 1987, ch. 221, 2.
- (h) In the placement order the court shall declare the child's school district or school districts of residency in any district or districts which it deems proper in the best interests of the child. The declaration by the court shall be binding upon the school districts.
- (j) In the placement order the court shall determine that adequate efforts were made to maintain the child in the child's home prior to placement.
- (k) This section applies to children who are at least six (6) years of age but who are under eighteen (18) years of age.

(m) The department of family services shall regularly monitor the amount of unencumbered funds available within the appropriation making allowance for the costs for children already placed. If the projected costs exceed the amount available, the division shall terminate its contracts for services under this section after notice of thirty (30) days and reduce the rates it pays to all providers by a uniform percentage. The percentage shall be determined by the division and shall bring the costs and projected fund availability into balance. The division shall readjust rates dependent upon change in availability of funds.

(n) Prior to billing the department of education under paragraph (c)(ii) of this section, program providers shall bill the department of health for costs of approved educational services covered under the school health program under the Wyoming Medical Assistance and Services Act pursuant to W.S. 42-4-103(a)(xxx).